



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 30 2011

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kathy Gargas, Environmental Coordinator
The Lincoln Electric Company
22801 Saint Clair Avenue
Cleveland, Ohio 44117

Dear Ms. Gargas:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves case docket number CAA-05-2011-0065 with the Lincoln Electric Company. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on September 30, 2011

Pursuant to paragraph 38 of the CAFO, The Lincoln Electric Company must pay the civil penalty within 30 days of September 30, 2011. Your electronic funds transfer must display the case name, "The Lincoln Electric Company," the docket number, CAA-05-2011-0065, and the billing document number, 2751103A063.

Please direct any questions regarding this case to Andre Daugavietis, Associate Regional Counsel, at (312) 886-6663.

Sincerely,

William MacDowell, Chief
Minnesota/Ohio Air Enforcement and Compliance
Assurance Section

Enclosure

cc: Marcy Toney, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Andre Daugavietis/C-14J
Bob Hodanbosi, Ohio Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:

**The Lincoln Electric Company
Cleveland, Ohio**

Respondent.

) **Docket No. CAA-05-2011-0065**
)

) **Proceeding to Assess a Civil Penalty**
) **Under Section 113(d) of the Clean Air Act**
) **42 U.S.C. § 7413(d)**
)

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Consent Agreement and Final Order

Preliminary Statement

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA); Region 5.

3. Respondent is The Lincoln Electric Company, a corporation doing business in Ohio.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 502(a) of the Clean Air Act states “After the effective date of any permit program approved or promulgated under this subchapter, it shall be unlawful for any person to violate any requirement of a permit issued under this subchapter, or to operate...a major source...except in compliance with a permit issued by a permitting authority under this subchapter.”

10. 40 C.F.R. § 70.7(b) states “...no part 70 source may operate after the time that it is required to submit a timely and complete application under an approved permit program, except in compliance with a permit issued under a part 70 program.”

11. EPA fully approved the Ohio Title V Permit program, effective October 1, 1995. 60 FR 42045 (August 15, 1995). Ohio's Title V Permit program requirements are codified at OAC 3745-77.

12. Sections 110(a) and 161 of the CAA, 42 U.S.C. 7410(a) and 7471, require states to adopt a State Implementation Plan that contains emission limitations and such other measures as may be necessary to prevent significant deterioration of air quality in areas designated as attainment or unclassifiable.

13. On November 8, 2006, EPA approved OAC 3745-17 as part of the federally enforceable state implementation plan (SIP) for Ohio. 71 FR 65417.

14. On January 22, 2003, EPA approved OAC 3745-31 as part of the federally enforceable state implementation plan (SIP) for Ohio. 68 FR 2909.

15. On July 12, 1982, EPA approved OAC 3745-35 as part of the federally enforceable state implementation plan (SIP) for Ohio. 47 FR 25145.

16. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004 through January 12, 2009 and may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

17. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

18. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

19. Lincoln Electric owns and operates a facility that produces electric welding equipment and products at 22801 St. Clair Ave, Cleveland, Ohio. The processes at the facility include a rail car unloader, a Sweco screen, driers, kilns, ball mills and a roll crusher (emissions units F001, P020, P021, P022, P023, P025, P026, P037, P039, P040, P902, P904 and P910).

These units are equipped with baghouses or Aerodyne cyclones for the control of particulate matter and opacity emissions.

20. Lincoln Electric's Title V Permit contains the following requirements applicable to the baghouses, wet rotoclones, wet scrubbers and Aerodyne cyclones mentioned above:

a. For Emission Unit (EU) F001, an ore pit, Lincoln Electric is required to control particulate emissions through the use of a baghouse. Lincoln Electric is also required to maintain the pressure drop across the baghouse within the range of 1.0 to 7.0 inches of water column while the unit is in operation. Pursuant to OAC 3745-17-11(B)(1), LEC is required to keep the emission of particulate from this source below 30.5 pounds per hour (lb/hr).

b. For EU P020, a lime drier, Lincoln Electric is required to operate a wet rotoclone while the unit is in operation. Lincoln Electric is also required to maintain the pressure drop across the wet rotoclone within the range of 5 to 10 inches of water column while the unit is in operation. Pursuant to OAC 3745-17-11(B), LEC is required to keep the emission of particulate from this source below 2.0 lb/hr.

c. For EU P021, a kiln, Lincoln Electric is required by the Title V Permit to equip the unit with an Aerodyne cyclone and a wet scrubber. Lincoln Electric is also required to maintain the pressure drop across the wet scrubber within the range of 11 to 14 inches of water column while the unit is in operation. Pursuant to OAC 3745-17-11(B), LEC is required to keep the emissions of particulate from this source below 6.79 lb/hr.

d. For EU P022, a drier, Lincoln Electric is required to equip the unit with a baghouse. Lincoln Electric is also required to maintain the pressure drop across the baghouse within the range of 4.5 to 7.5 inches of water column while the unit is in operation. Pursuant to OAC 3745-17-11(B), LEC is required to keep the emissions of particulate from this source below 8.61 lb/hr.

e. For EU P023, a kiln, Lincoln Electric is required to operate an Aerodyne cyclone while the unit is in operation. Lincoln Electric is also required to maintain the secondary blower velocity pressure across the cyclone within the range established during the most recent emissions test that demonstrated compliance. Pursuant to OAC 3745-17-11(B), LEC is required to keep the emissions of particulate from this source below 1.15 lb/hr.

f. For EU P025, a drier, Lincoln Electric is required to equip the unit with a baghouse and operate the baghouse while the unit is in operation. Lincoln Electric is also required to maintain the pressure drop across the baghouse within the range of 2 to 7 inches of water column. Pursuant to OAC 3745-17-11(B), LEC is required to keep the emissions of particulate from this source below 4.03 lb/hr.

g. For EU P026, a kiln, Lincoln Electric is required to equip the unit with a baghouse and operate the baghouse while the unit is in operation. Lincoln Electric is also required to maintain the pressure drop across the baghouse within the range of 2 to 6 inches of water column while the unit is in operation. Pursuant to OAC 3745-17-11(B), LEC is required to keep the emissions of particulate from this source below 4.10 lb/hr.

h. For EU P037, a roll crusher line, Lincoln Electric is required to equip the unit with a baghouse. Lincoln Electric is also required to maintain the pressure drop across the baghouse within the range of 2 to 8 inches of water column while the unit is in operation. Pursuant to OAC 3745-31-05(A)(3), LEC is required to keep the emissions of particulate from this source below 0.9 lb/hr.

i. For EU P039, a ball mill, Lincoln Electric is required to control particulate emissions through the use of a baghouse. Lincoln Electric is also required to maintain the pressure drop across the baghouse within the range of 1.0 to 7.0 inches of water column while the unit is in operation. Pursuant to OAC 3745-17-11(B)(1), LEC is required to keep the emissions of particulate from this source below 6.50 lb/hr.

j. For EU P040, a Sweco screen, Lincoln Electric is required to control particulate emissions through the use of a baghouse. Lincoln Electric is also required to maintain the pressure drop across the baghouse within the range of 2 to 8 inches of water column while the unit is in operation. Pursuant to OAC 3745-31-05(A)(3), LEC is required to keep the emissions of particulate from this source below 0.45 lb/hr.

k. For EU P902, a flux kiln, Lincoln Electric is required to vent all particulate emissions to a baghouse. Lincoln Electric is also required to maintain the pressure drop across the baghouse within the range of 0.5 to 4.5 inches of water column while the unit is in operation. Pursuant to OAC 3745-17-12(N)(4), LEC is required to keep the emissions of particulate from this source below 2.4 lb/hr.

l. For EU P904, a flux kiln, Lincoln Electric is required to operate the baghouse while the unit is in operation. Lincoln Electric is also required to maintain the pressure drop across the baghouse within the range of 1.5 to 6 inches of water column while the unit is in operation. Pursuant to OAC 3745-17-12(N)(4), Lincoln Electric is required to keep the emissions of particulate from this source below 2.4 lb/hr. Pursuant to OAC 3745-17-12(N)(4), LEC is required to keep the emissions of particulate from this source below 2.4 lb/hr.

21. For each EU listed in paragraph 20, the Title V Permit also requires Lincoln Electric to record the pressure drop or velocity pressure "on a daily basis" pursuant to OAC 3745-35-02(D)(6).

22. For each EU listed in paragraph 20, the Title V Permit also requires Lincoln Electric to submit quarterly deviation reports that identify all periods of time that the pressure drop or velocity pressure did not comply with the allowable range pursuant to OAC 3745-35-02(D)(6).

23. A minor modification to the Title V permit approved by Ohio EPA and received by Lincoln Electric on October 31, 2005, changed the pressure drop limit on EU P904 to the range 2.0 to 8.0 inches of water column.

24. PTI 13-04550 allowed the facility to modify EU P021 by installing a baghouse as a replacement for the scrubber required by the Title V permit (see paragraph 20.c. above). This PTI requires Lincoln Electric to operate a baghouse while the EU is in operation. Lincoln Electric is also required to maintain the pressure drop across the baghouse within the range of 1 to 8 inches of water column while the unit is in operation. Pursuant to OAC 3745-17-11(B), LEC is required to keep the emissions of particulate from the calciner below 2.5 lb/hr and the emissions of particulate from the natural gas burner below 0.10 lb/hr.

25. PTI 13-04741 allowed the facility to install EU P910, a flux kiln mixer. Under this PTI, Lincoln Electric is required to install and operate a baghouse while the unit is in operation. Lincoln Electric is also required to maintain the pressure drop across the baghouse within the range of 1.0 to 8.0 inches of water column while the unit is in operation. Pursuant to OAC 3745-31-05(A)(3), LEC is required to keep the emissions of particulate from this source below 2.4 lb/hr.

26. For EUs P021 and P910, PTIs 13-04550 and 13-04741 also require Lincoln Electric to record the pressure drop across the emissions control unit each day pursuant to OAC 3745-35-02(D)(6).

27. For EUs P021 and P910, PTIs 13-04550 and 13-04741 also require Lincoln Electric to submit quarterly pressure drop deviation reports that identify all periods of time that the pressure drop across the emissions control unit did not comply with the allowable range pursuant to OAC 3745-35-02(D)(6).

28. Copies of the daily pressure drop/velocity pressure reading records show that Lincoln Electric has, on approximately 40 days, operated the emission units listed above while the associated emissions control unit was operating outside the allowable range, in violation of its Title V Permit, PTIs 13-04550 and 13-04741 and the Ohio SIP.

29. On April 29-May 2, 2008, Air Compliance Testing, Inc. conducted three runs using Reference Method 5 on several emissions units at the facility. The average particulate emission rate from EU P904 during the three runs was 8.67 lb/hr. The limit allowed by Lincoln Electric's Title V Permit is 2.4 lb/hr. This thus represents a violation of Lincoln Electric's Title V Permit and OAC 3745-17-12(N)(4).

30. On June 19, 2008, Air Compliance Testing, Inc. conducted three runs using Reference Method 5 on EU P904. The average particulate emission rate from EU P904 demonstrated compliance with the 2.4 lb/hr limit.

31. Copies of the daily pressure drop/velocity pressure reading records show discrepancies between the form "EPA TITLE V – EQUIPMENT MONITORING" and "Visual Inspection of EPA Permitted Sources," both of which recorded the pressure drop for the Sweco Screen, EU P040, one as a backup for the other. There are several instances where a pressure drop is recorded on one of the forms for a specific day but, on the same day, at a different time, the other form certifies that the unit did not run that day and a pressure drop was not taken. These discrepancies occurred in approximately 9.26% of the readings over the period reviewed.

32. On most of the "Visual Inspection of EPA Permitted Sources" forms, the times at which the pressure drop readings were taken show that the readings for each unit were taken immediately after one another. A small percentage of the forms show that the readings for different units were taken at different times during the day. If a unit was not running at the time

the operator was at the unit to take the reading, it is not apparent that the operator would come back and take a reading if the unit started operating later that day.

33. As designated in paragraph 31 and 32 EPA alleges that Lincoln Electric failed to record the pressure drop each day that the unit was running.

34. Copies of the quarterly pressure drop deviation reports submitted by Lincoln Electric show that Lincoln Electric, on at least 5 days, failed to timely identify all periods of time that the pressure drop or velocity pressure did not comply with the allowable range, in violation of its Title V Permit, PTIs 13-04550 and 13-04741 and the Ohio SIP.

35. By violating the conditions of its Title V Permit, Lincoln Electric has also violated 40 C.F.R. § 70.7(b) and Section 502(a) of the Act.

36. By violating the conditions of the SIP and its Permits-to-Install, Lincoln Electric has also violated Title I of the Act.

Civil Penalty

37. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, information that Respondent has provided to EPA, and Respondent's agreement to perform a supplemental environmental project, Complainant has determined that an appropriate civil penalty to settle this action is \$80,000.

38. Within 30 days after the effective date of this CAFO, Respondent must pay an \$80,000 civil penalty by check or electronic funds transfer payable to the "Treasurer, United States of America" within 30 days after the effective date of this CAFO. The check must note the case name and docket number of this CAFO, and the billing document number.

39. Payment of the civil penalty, if made by check and sent by the U.S. Postal Service, shall be made payable to "Treasurer, United States of America," and sent to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

40. Payment of the civil penalty, if made by check and sent by express mail (non-U.S. Postal Service), shall be made payable to "Treasurer, United States of America," and sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

41. Payment of the civil penalty, if made by electronic funds transfer, shall be sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

42. In the comment or description field of the electronic funds transfer, state the case name and docket number of this CAFO, and the billing document number.

43. Respondent must send a notice of payment that states the case name and docket number of this CAFO, and the billing document number to the Compliance Tracker, Air Enforcement and Compliance Assurance Branch and to Andre Daugavietis at the following addresses when it pays the penalty:

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

77 W. Jackson Boulevard
Chicago, Illinois 60604

Andre Daugavietis (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

44. This civil penalty is not deductible for federal tax purposes.

45. If Respondent does not pay timely the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

46. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

Supplemental Environment Project

47. Respondent agrees to complete a supplemental environmental project (SEP) designed to protect the environment and public health by reducing the emission of volatile organic compounds (VOCs) and hazardous air pollutants (HAPs).

48. At its Cleveland facility, Respondent agrees to complete the following as a SEP:

49. Respondent must reduce the amount of xylene (which has a VOC content of at least 7.25 lb/gal and a HAP content of at least 7.25 lb/gal) used in Emission Unit K065 by 25% by weight within one year of the effective date of this Order. Parts or components that would have been coated with the xylene, but which will not be, pursuant to this Order, must be coated with an epoxy that has a VOC content no greater than 0.64 lbs/gal and that emits no HAPs or an equivalent-emitting material.

50. Respondent must spend a total SEP amount of \$300,000. Any additional costs incurred, either voluntary or mandatory, by the project to complete the reductions in paragraph 49 are outside the scope of this SEP and not considered part of the SEP.

51. Respondent must continuously use the epoxy coating required by paragraphs 49, or an equivalent-emitting material, for 3 year(s) following the completion of the switch.

52. Respondent certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

53. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

54. Respondent must submit a SEP completion report to EPA by November 1, 2012. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized cost of goods and services used to complete the SEP documented by copies of invoices, purchase orders or cancelled checks that specifically identify and itemize the individual cost of the goods and services;

- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

55. Respondent must submit all notices and reports required by this CAFO by first-class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 43, above.

56. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

57. Following receipt of the SEP completion report described in paragraph 54, above, EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report according to the terms set forth in this CAFO;
- b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under paragraph 59.

58. If EPA exercises option b above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete

the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 59, below.

59. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, including the requirement to complete the replacements within one year of the date of this Order, Respondent must pay a civil penalty amount of \$50,000.
- b. If Respondent did not complete the SEP satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the SEP and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 50, Respondent will not be liable for any stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 50, Respondent must pay a civil penalty amount of \$15,000.
- d. If Respondent did not submit timely the SEP completion report, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report: \$500 per day.

60. EPA's determinations of whether Respondent completed the SEP satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

61. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use one of the methods of payment specified in paragraphs 39 – 41, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

62. Any public statement, including but not limited to press releases, public interviews, or website postings, that Respondent makes referring to the SEP must include the following language: "Lincoln Electric undertook this project as part of the settlement of a

United States Environmental Protection Agency's enforcement action against Lincoln Electric for violations of the Clean Air Act."

63. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct the \$300,000 in expenditures incurred in performing the SEP. This provision does not apply to the environmentally beneficial projects described in paragraph 64 – 68, below.

Environmentally Beneficial Projects

64. Respondent agrees to complete two environmentally beneficial projects (EBPs) designed to protect the environment and public health by reducing the emission of VOCs and HAPs.

65. At its Cleveland facility, Respondent agrees to complete the following as EBPs:

66. Respondent will cease the use of the current Red Insulating Epoxy in Emission Unit K015 (which has a VOC content of at least 3.25 pounds per gallon of coating and a HAP content of at least 0.47 pounds per gallon of coating) within one year of the effective date of this Order. Parts or components that would have been coated with the current Red Insulating Epoxy will instead be coated with an epoxy that has a VOC content no greater than 0.64 pounds per gallon (lbs/gal) and that emits no Hazardous Air Pollutants (HAPs), or an equivalent-emitting material.

67. Respondent will reduce the amount of current Insulating Varnish (which has a VOC content of at least 2.31 lb/gal and a HAP content of at least 2.31 lb/gal) used in Emission Unit K065 by 25% by weight within one year of the effective date of this Order. Parts or components that would have been coated with the current Insulating Varnish, but which will not be, will be coated with an epoxy that has a VOC content no greater than 0.64 lbs/gal and that emits no HAPs, or an equivalent-emitting material.

68. Respondent will continuously use the epoxy coating required by paragraphs 66 – 67, or an equivalent-emitting material, for 3 year(s) following the completion of the switch.

69. Respondent agrees to use good faith efforts to secure environmental benefits from the EBPs, consistent with applicable requirements and limits.

70. Respondent will expend \$700,000 to implement the EBPs. Respondent agrees to perform the EBPs voluntarily. The EBPs are intended to reduce environmental impacts in the community, promote a better workplace and protect the environment.

General Provisions

71. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

72. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

73. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 71, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

74. Respondent certifies that it is complying fully with the applicable requirements of its Title V Permit and the Ohio SIP.

75. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

76. The terms of this CAFO bind Respondent, its successors, and assigns.

77. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

78. Each party agrees to bear its own costs and attorney's fees in this action.

79. This CAFO constitutes the entire agreement between the parties.


The Lincoln Electric Company, Respondent

9/28/11
Date


John S. Petkovsek, Director, EHS
The Lincoln Electric Company

United States Environmental Protection Agency, Complainant

9/30/11
Date


Cheryl L. Newton
Director
Air and Radiation Division
U.S. Environmental Protection Agency
Region 5


Consent Agreement and Final Order
In the Matter of: The Lincoln Electric Company
Docket No.

CAA-05-2011-0065

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-30-11
Date


Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

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SEP 30 2011

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Consent Agreement and Final Order
In the Matter of: The Lincoln Electric Company
Docket No. CAA-05-2011-0065

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number _____ with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Kathy Gargasz, Environmental Coordinator
The Lincoln Electric Company
22801 Saint Clair Avenue
Cleveland, Ohio 44117

I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Marcy Toney
Regional Judicial Officer
U.S. Environmental Protection Agency
77 W. Jackson Boulevard / Mail Code C-14J
Chicago, Illinois 60604

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Michael S. McMahon
McMahon DeGulis LLP
812 Huron Road
Cleveland, Ohio 44115

Bob Hodanbosi
Chief, Division of Air Pollution Control
Ohio Environmental Protection Agency
1800 WaterMark Drive
Columbus, Ohio 43266-1049

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SEP 30 2011

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

On the 3 day of October 2011.

William L. MacDonald Jr.
Loretta Shaffer, Administrative Program Assistant
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7672 8027